

## Article 9.

### Issuance of Permits.

#### **§ 18B-900. Qualifications for permit.**

(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person must satisfy all of the following requirements:

- (1) Be at least 21 years old, unless the person is a manager of a business selling only malt beverages and unfortified wine, in which case the person shall be at least 19 years old.
- (2) Be a resident of North Carolina unless:
  - a. He is an officer, director or stockholder of a corporate applicant or permittee and is not a manager or otherwise responsible for the day-to-day operation of the business; or
  - b. He has executed a power of attorney designating a qualified resident of this State to serve as attorney in fact for the purposes of receiving service of process and managing the business for which permits are sought; or
  - c. He is applying for a nonresident malt beverage vendor permit, a nonresident wine vendor permit, or a vendor representative permit.
- (3) Not have been convicted of a felony within three years, and, if convicted of a felony before then, has had his citizenship restored.
- (4) Not have been convicted of an alcoholic beverage offense within two years.
- (5) Not have been convicted of a misdemeanor controlled substance offense within two years.
- (6) Not have had an alcoholic beverage permit revoked within three years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1).
- (7) Not have, whether as an individual or as an officer, director, shareholder or manager of a corporate permittee, an unsatisfied outstanding final judgment that was entered against him in an action under Article 1A of this Chapter.
- (8) Be current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties that are collectible under G.S. 105-241.22. This subdivision does not apply to the following ABC permits:
  - a. Special occasion permit under G.S. 18B-1001(8).
  - b. Limited special occasion permit under G.S. 18B-1001(9).
  - c. Special one-time permit under G.S. 18B-1002.
  - d. Salesman permit under G.S. 18B-1111.

To avoid undue hardship, however, the Commission may decline to take action under G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5).

(b) Definition of Conviction. – A person has been "convicted" for the purposes of subsection (a) when he has been found guilty, or has entered a plea of guilty or nolo contendere, and judgment has been entered against him. A felony conviction in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would also constitute a felony in North Carolina. A conviction of an alcoholic beverage offense or misdemeanor drug offense in another jurisdiction shall disqualify a person from being eligible to receive or hold an ABC permit if his conduct would constitute an offense in North Carolina, unless the Commission determines that under North Carolina procedure judgment would not have been

entered under the same circumstances. Revocation of a permit in another jurisdiction shall disqualify a person if his conduct would be grounds for revocation in North Carolina.

(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subsection (a):

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association or general partnership;
- (2a) Each general partner in a limited partnership;
- (2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability company;
- (3) Each officer, director and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he is a manager or is otherwise responsible for the day-to-day operation of the business;
- (4) The manager of an establishment operated by a corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine permits;
- (5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

(d) Manager of Off-Premises Establishment. – Although he need not otherwise meet the requirements of this section, the manager of an establishment operated by a corporation and holding off-premises permits for malt beverages, unfortified wine, or fortified wine shall be at least 19 years old and shall meet the requirements of subdivisions (3), (4), (5) and (6) of subsection (a).

(e) Convention Centers. – With the approval of the Commission, the manager of a convention center may contract with another person to provide food and beverages at conventions and banquets at the convention center, and that person may engage in the activities authorized by the convention center's permit, under conditions set by the Commission. The person with whom the convention center contracts must meet the qualifications of this section.

(f) Procedure to Confirm State Tax Compliance. – Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a person's compliance with subdivision (a)(8) of this section. If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission may not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 150B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under subdivision (a)(8) of this section. (1949, c. 974, ss. 1, 2; 1963, c. 119; c. 426, s. 12; 1965, c. 326; 1971, c. 872, s. 1; 1973, c. 758, s. 2; c. 1012; 1975, c. 19, s. 5; 1977, c. 70, s. 19.1; c. 668, s. 3; c. 977, ss. 1, 2; 1979, c. 286, s. 4; 1981, c. 412, s. 2; c. 747, ss. 53, 54; 1981 (Reg. Sess., 1982), c. 1262, ss. 13, 14; 1983, c. 435, ss. 32, 39; 1987, c. 136, ss. 7, 8; 1993, c. 415, s. 10; 1995, c. 466, s. 6; 2004-203, s. 25(a); 2014-3, s. 10.1(a).)

### **§ 18B-901. Issuance of permits.**

(a) Who Issues. – All ABC permits shall be issued by the Commission. Purchase-transportation permits shall be issued by local boards under G.S. 18B-403.

(b) Notice to Local Government. – Before issuing a retail ABC permit, other than a:

- (1) Special occasion permit under G.S. 18B-1001(8);
- (2) Limited special occasion permit under G.S. 18B-1001(9);
- (3) Temporary permit under G.S. 18B-905; or
- (4) Special one-time permit under G.S. 18B-1002

for an establishment, the Commission shall give notice of the permit application to the governing body of the city in which the establishment is located. If the establishment is not inside a city, the Commission shall give notice to the governing body of the county. The Commission shall allow the local governing body 15 days from the time the notice was mailed or delivered to file written objection to the issuance of the permit. To be considered by the Commission, the objection shall state the facts upon which it is based.

(c) Factors in Issuing Permit. – Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A of the General Statutes and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are all of the following:

- (1) The reputation, character, and criminal record of the applicant.
- (2) The number of places already holding ABC permits within the neighborhood.
- (3) Parking facilities and traffic conditions in the neighborhood.
- (4) Kinds of businesses already in the neighborhood.
- (5) Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.
- (6) Zoning laws.
- (7) The recommendations of the local governing body.
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:
  - a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.
  - b. Evidence of illegal drug activity on or about the licensed premises.
  - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.

(d) Commission's Authority. – The Commission shall have the sole power, in its discretion, to determine the suitability and qualifications of an applicant for a permit. The Commission shall also have the authority to determine the suitability of the location to which the permit may be issued. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss.

1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1993 (Reg. Sess., 1994), c. 749, ss. 1, 2; 2005-392, ss. 2, 3.)

**§ 18B-902. Application for permit; fees.**

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. Each person required to qualify under G.S. 18B-900(c) shall sign and swear to the application and shall submit a full set of fingerprints with the application.

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Branch, shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

The Department of Public Safety may provide a criminal record check to the ALE Branch for a person who has applied for a permit through the Commission. The ALE Branch shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The ALE Branch and the Commission shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(c) False Information. – Knowingly making a false statement in an application for an ABC permit shall be grounds for denying, suspending, revoking or taking other action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.

- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.
- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.
- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.
- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
- (37) Wine shop permit – \$100.00.
- (38) Winemaking on premises permit – \$400.00.
- (39) Wine shipper packager permit – \$100.00.
- (40) Malt beverage special event permit – \$200.00.
- (41) Malt beverage tasting permit – \$100.00.
- (42) Spirituous liquor tasting permit – \$100.00.
- (43) Antique spirituous liquor permit – \$100.00.
- (44) Spirituous liquor special event permit – \$200.00.
- (45) Special auction permit – \$750.00.
- (e) Repealed by Session Laws 1998-95, s. 29, effective May 1, 1999.
- (f) Fee Not Refundable. – The fee required by subsection (d) shall not be refunded.
- (g) Fees to Treasurer. – All fees collected by the Commission under this or any other section of this Chapter shall be remitted to the State Treasurer for the General Fund.
- (h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of

Environmental Assistance and Outreach of the Department of Environmental Quality for review and certification. The Division of Environmental Assistance and Outreach shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of Environmental Assistance and Outreach shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified. (1949, c. 974, ss. 1, 2; 1963, c. 119; c. 426, s. 12; 1965, c. 326; 1971, c. 872, s. 1; 1973, c. 758, s. 2; c. 1012; 1975, c. 19, s. 5; 1977, c. 70, s. 19.1; c. 668, s. 3; c. 977, ss. 1, 2; 1979, c. 286, s. 4; 1981, c. 412, s. 2; c. 747, ss. 55, 56; 1983, c. 713, s. 105; 1989, c. 737, s. 3; c. 800, s. 7; 1991, c. 267, s. 2; c. 565, ss. 2, 7; c. 669, s. 2; c. 689, ss. 307, 308; 1991 (Reg. Sess., 1992), c. 920, s. 5; 1993, c. 415, s. 11; 1993 (Reg. Sess., 1994), c. 745, s. 28; 1995, c. 404, s. 2; c. 466, s. 7; 1997-134, s. 3; 1997-467, s. 2; 1998-95, s. 29; 2001-262, s. 6; 2001-487, s. 49(f); 2002-147, s. 1; 2003-402, s. 1; 2005-350, s. 2(b); 2005-380, s. 1; 2006-222, s. 2.3; 2006-227, s. 3; 2007-402, s. 2(b); 2008-187, s. 6; 2009-105, s. 1; 2009-377, s. 1; 2010-31, ss. 13.1(b), 14.12(b); 2011-145, s. 19.1(q); 2014-100, ss. 17.1(o), (xxx); 2015-98, s. 1(c); 2015-241, s. 14.30(u); 2017-87, s. 2(b).)

**§ 18B-903. Duration of permit; renewal and transfer.**

(a) Duration. – Once issued, ABC permits shall be valid for the following periods, unless earlier surrendered, suspended or revoked:

- (1) On-premises and off-premises malt beverage, unfortified wine, and fortified wine permits; culinary permits; and all permits listed in G.S. 18B-1100 shall remain valid indefinitely;
- (2) Limited special occasion permits shall be valid for 48 hours before and after the occasion for which the permit was issued;
- (3) Special one-time permits issued under G.S. 18B-1002 shall be valid for the period stated on the permit;
- (4) Temporary permits issued under G.S. 18B-905 shall be valid for 90 days; and
- (5) All other ABC permits shall be valid for one year, from May 1 to April 30.

(b) Renewal. – Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee. The application fee shall be the same amount as the initial fee set in G.S. 18B-902, except that the renewal application fee for each wine shop permit shall be five hundred dollars (\$500.00), and the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be one thousand dollars (\$1,000). A renewal fee shall not be refundable.

(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of four hundred dollars (\$400.00) for each permit held. The fee shall be paid by May 1 of each year. A registration fee shall not be refundable. Failure to pay the annual registration and inspection fee shall result in revocation of the permit.

(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, either a current plan

for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the premises, or an application for a waiver pursuant to G.S. 18B-902(h).

(c) Change in Ownership. – All permits for an establishment shall automatically expire and shall be surrendered to the Commission if:

- (1) Ownership of the establishment changes; or
- (2) There is a change in the membership of the firm, association or partnership owning the establishment, involving the acquisition of a twenty-five percent (25%) or greater share in the firm, association or partnership by someone who did not previously own a twenty-five percent (25%) or greater share; or
- (3) Twenty-five percent (25%) or more of the stock of the corporate permittee owning the establishment is acquired by someone who did not previously own twenty-five percent (25%) or more of the stock.

(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(a)(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

(d) Change in Management. – A corporation holding a permit for an establishment for which the manager is required to qualify as an applicant under G.S. 18B-900(c) shall, within 30 days after employing a new manager, submit to the Commission an application for substitution of a manager. The application shall be signed by the new manager, shall be on a form provided by the Commission, and shall be accompanied by a fee of ten dollars (\$10.00). The fee shall not be refundable.

(e) Transfer. – An ABC permit may not be transferred from one person to another or from one location to another.

(f) Lost Permits. – The Commission may issue duplicate ABC permits for an establishment when the existing valid permits have been lost or damaged. The request for duplicate permits shall be on a form provided by the Commission, certified by the permittee and the Alcohol Law Enforcement Branch, and accompanied by a fee of ten dollars (\$10.00).

(g) Name Change. – The Commission may issue new permits to a permittee upon application and payment of a fee of ten dollars (\$10.00) for each location when the permittee's name or name of the business is changed. (1971, c. 872, s. 1; 1975, c. 330, s. 1; c. 411, s. 4; 1981, c. 412, s. 2; c. 747, s. 57; 1983, c. 713, s. 106; 1989, c. 800, s. 8; 1991, c. 565, ss. 3, 7; 1991 (Reg. Sess., 1992), c. 920, s. 6; 1998-95, s. 30; 2002-126, s. 29A.13; 2004-203, s. 25(b); 2005-350, s. 2(c); 2007-402, s. 2(c); 2008-187, s. 7; 2009-105, s. 2; 2011-145, s. 19.1(n); 2014-100, ss. 16B.2(a), 17.1(xxx); 2015-98, s. 6; 2017-87, s. 16(c).)

### **§ 18B-903.1. Reissuance of certain permits.**

(a) Reissuance. – Notwithstanding G.S. 18B-902(b) or G.S. 18B-903, if a nonprofit organization has received a limited special occasion permit pursuant to G.S. 18B-1001(9) or a

special one-time permit pursuant to G.S. 18B-1002(a)(2) or (a)(5) within the previous 18 months, the Commission shall reissue the permit to the nonprofit organization if the same individual representing the organization requests reissuance of the permit for the same location. The Commission shall require only the following information in order to reissue the permit:

- (1) The street address of the location where the event will take place.
- (2) The county in which the event will take place.
- (3) The date of the event.
- (4) A description of the event.
- (5) The name, address, date of birth, and contact information of the individual representing the nonprofit organization.

(b) **Duration.** – Once issued, a reissued limited special occasion permit shall be valid for 48 hours before and after the occasion for which the permit was issued and a reissued special one-time permit shall be valid only for the period stated on the permit.

(c) **Reissuance Fee.** – Application for reissuance of a limited special occasion permit or a special one-time permit shall be on a form provided by the Commission. The application fee shall be the same as the initial fee set in G.S. 18B-902. A reissuance fee shall not be refundable.

(d) **Investigation.** – The Commission, with the assistance of the ALE Branch, shall not investigate the applicant and the premises for which the reissuance is requested more than once every three years. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(e) **False Information.** – Knowingly making a false statement in an application for a permit reissuance pursuant to this section shall be grounds for denying, suspending, revoking, or taking other action against the permit as provided in G.S. 18B-104 and shall also be a Class 1 misdemeanor. (2018-100, s. 5(d).)

#### **§ 18B-904. Miscellaneous provisions concerning permits.**

(a) **Who Receives Permit.** – An ABC permit shall authorize the permitted activity only on the premises of the establishment named in the permit. An ABC permit shall be issued to the owner of the business conducted on the premises, or to the management company employed to independently manage and operate the business. The ABC Commission may determine if a management agreement delegates sufficient managerial control and independence to a manager or management company to require an ABC permit to be issued to the manager.

(b) **Posting Permit.** – Each ABC permit that is held by an establishment shall be posted in a prominent place on the premises.

(c) **Business Not Operating.** – An ABC permit shall automatically expire and shall be surrendered to the Commission if the person to whom it is issued does not commence the activity authorized by the permit within six months of the date the permit is effective. Before the expiration of the six-month period, the Commission may waive this provision in individual cases for good cause.

(d) **Notice of Issuance.** – Upon issuing a permit the Commission shall send notice of the issuance, with the name and address of the permittee and the establishment, to:

- (1) The Department of Revenue;
- (2) The local board, if one exists, for the city or county in which the establishment is located;
- (3) The governing body, sheriff, and tax collector of the county in which the establishment is located;



- (4) If the establishment is located inside a city, the governing body, chief of police, and tax collector for the city; and
  - (5) The ALE Branch.
- (e) Business or Location No Longer Suitable. –
- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood.
  - (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action.
  - (3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and without a finding of mitigating evidence or circumstances, it finds evidence that the permittee or the permittee's employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations on separate dates of knowingly allowing a violation of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws as those offenses are prohibited pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b), G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed premises within a 12-month period. The permittee and the owner of the property have the responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred.
  - (4) Notwithstanding G.S. 18B-906, the Commission shall immediately suspend permits issued by it for a period of 30 days if both of the following apply:
    - a. Alcohol Law Enforcement agents or local ABC Board officers provide advance notice to the Commission Legal Division staff of the ongoing undercover operation.

- b. Upon execution of the search warrant resulting from the undercover operation, five or more persons are criminally charged with violations of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws.

(f) **Local Government Objections.** – The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.

(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160A-181.1(c). (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, s. 14; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1963, c. 426, ss. 4, 5; 1971, c. 872, s. 1; 1981, c. 412, s. 2; c. 747, s. 58; 1989, c. 800, ss. 9, 10; 1991, c. 459, s. 4; 1993, c. 415, s. 12; 1998-46, s. 6; 1999-322, s. 2; 2001-515, s. 3(b); 2005-392, s. 4; 2011-145, s. 19.1(q); 2014-100, ss. 15.2A1(a), 17.1(xxx).)

#### **§ 18B-905. Temporary permits.**

When an application has been received in proper form, with the required application fee, the Commission may issue a temporary permit for any of the activities for which permits are authorized under G.S. 18B-1001 and 18B-1100. A temporary permit may be revoked summarily by the Commission without complying with the provisions of Chapter 150B. Revocation of a temporary permit shall be effective upon service of the notice of revocation upon the permittee or upon the expiration of three working days after the notice of the revocation has been mailed to the permittee at either his residence or the address given for the business in the permit application. No further notice shall be required. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1987, c. 827, s. 1.)

#### **§ 18B-906. Applicability of Administrative Procedure Act.**

(a) **Act Applies.** – An ABC permit is a "license" within the meaning of G.S. 150B-2, and, except for revocation pursuant to G.S. 18B-904(e)(3) or for a confirmation pursuant to G.S. 18B-900(a)(8), a Commission action on issuance, suspension, or revocation of an ABC permit, other than a temporary permit issued under G.S. 18B-905, is a "contested case" subject to the provisions of Chapter 150B except as provided in this section.

(b) **Exception on Hearing Location.** – Hearings on ABC permits shall be held in Ahoskie, Asheville, Bryson City, Charlotte, Elizabeth City, Fayetteville, Franklin, Goldsboro, Greensboro, Greenville, Hickory, Jacksonville, Kinston, New Bern, Raleigh, Statesville, Wilmington, and Winston-Salem. Hearings shall be held within 100 miles, as best can be determined by the Commission, of the county seat of the county in which the licensed business or proposed business is located. The hearing may be held, however, at any place upon agreement of the Commission and all other parties.

(c) Exception on New Evidence. – In making a final decision in a contested case in which an issue is whether to deny an application for an ABC permit because either the applicant or the location for the proposed ABC permit is unsuitable, the Commission may hear evidence of acts that occurred after the date the contested case hearing was held if the evidence is admissible under G.S. 150B-29(a). New evidence heard under this subsection is not grounds for reversal or remand under G.S. 150B-51(a). (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 8, 14; 1953, c. 1207, ss. 2-4; 1957, cc. 1048, 1440; 1963, c. 426, ss. 4, 5, 10-12; c. 460, s. 1; 1971, c. 872, s. 1; 1975, c. 825, s. 1; 1977, c. 176, s. 9; 1981, c. 412, s. 2; 1987, c. 827, s. 1; 1993, c. 415, s. 13; 2005-392, s. 5; 2014-3, s. 10.1(b).)

**§§ 18B-907 through 18B-999. Reserved for future codification purposes.**